

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN J. KORESKO, V, et al.

v.

JEFF BLEWEIS, et al.

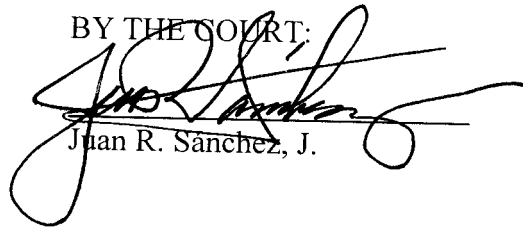
CIVIL ACTION

No.: 04-769

ORDER

AND NOW, this 18th day of August, 2009, Plaintiffs' Renewed Motion to Vacate Order of Dismissal (Document 147) is DENIED.¹

BY THE COURT:



Juan R. Sanchez, J.

¹On July 17, 2009, this Court denied without prejudice Plaintiffs' first motion to vacate the January 6, 2009 Order dismissing this action with prejudice. This Court noted Plaintiffs asserted they had not received the December 17, 2008 Order, directing Plaintiffs to show cause why the case should not be dismissed pursuant to Local Rule of Civil Procedure 41.1(a), due to a clerical error. *See* L.R. Civ. P. 41.1(a) ("Whenever in any civil action the Clerk shall ascertain that no proceeding has been docketed therein for a period of more than one year immediately preceding such ascertainment, the Clerk shall send notice to counsel of record, or, if none, to the parties that the action shall be dismissed, unless the court upon written application filed within thirty (30) days from the date of such notice and upon good cause shown, shall otherwise order."). This Court nevertheless denied Plaintiffs' motion because they failed to explain why the case had remained dormant since November 2005 or how they intended to proceed to trial. This Court advised Plaintiffs they could file a renewed motion to vacate, addressing those issues, by July 31, 2009. Plaintiffs filed the instant motion on July 28, 2009, and on August 11, 2009, Defendants filed their response in opposition.

On August 18, 2009, this Court held a teleconference in which both sides were given the opportunity to state their positions regarding the renewed motion to vacate the dismissal order. Upon consideration of the parties' oral representations and written statements, this Court concludes Plaintiffs' proffered excuses for inactivity, namely, difficulties with counsel and time commitments in other related litigation, are insufficient to justify their extraordinary delay in prosecuting this case.